

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

SENATE FILE NO. [BILL NUMBER]

Mining permit applications-objections.

Sponsored by: SDraft Committee

A BILL

for

1 AN ACT relating to environmental quality; amending and
2 repealing provisions regarding objections to applications for
3 mining permits; and providing for an effective date.

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5 *Be It Enacted by the Legislature of the State of Wyoming:*

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7 **Section 1.** W.S. 35-11-406(k) is amended to read:

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9 **35-11-406. Application for permit; generally; denial;**
10 **limitations.**

11

12 (k) Any interested person has the right to file written
13 objections to the application with the ~~administrator~~director

1 within thirty (30) days after the last publication of the
2 ~~above~~ notice required in subsection (j) of this section. ~~For~~
3 ~~surface coal mining operations, the director may hold an~~
4 ~~informal conference if requested and take action on the~~
5 ~~application in accordance with the department's rules of~~
6 ~~practice and procedure, with the right of appeal to the~~
7 ~~council which shall be heard and tried de novo. A conference~~
8 ~~shall be held if the director determines that the nature of~~
9 ~~the complaint or the position of the complainants indicates~~
10 ~~that an attempt to informally resolve the disputes is~~
11 ~~preferable to a contested case proceeding. An informal~~
12 ~~conference or a public hearing shall be held within twenty~~
13 ~~(20) days after the final date for filing objections unless~~
14 ~~a different period is stipulated to by the parties.~~ The
15 director shall immediately forward any objection to the
16 applicant and shall make objections available to the public.
17 If an informal conference is requested, the director shall
18 hold the informal conference in the locality of the proposed
19 operation within thirty (30) days after receiving the
20 objection. The ~~council or~~ director shall publish notice of
21 the time, date and location of the ~~hearing or~~ informal
22 conference in a newspaper of general circulation in the
23 locality of the proposed operation ~~once a week for two (2)~~

~~consecutive weeks immediately prior to the hearing or~~
~~conference~~ at least one (1) week before the date of the
informal conference. ~~The hearing shall be conducted as a~~
~~contested case in accordance with the Wyoming Administrative~~
~~Procedure Act, and right of judicial review shall be afforded~~
~~as provided in that act.~~ Within thirty (30) days after an
informal conference, the director shall render a decision on
the application and provide the applicant, the objector and
any other parties to the informal conference with written
findings stating the reasons for the decision. If no informal
conference is requested, the director shall render a decision
on the application within thirty (30) days after the time to
file objections under this subsection has elapsed. The
applicant, objector or any other party to an informal
conference may appeal the director's decision on the
application to the council.

STAFF COMMENT

The Committee may wish to consider the following as it reviews
this bill draft:

- On page 2, lines 5-6, the Committee may wish to reinsert language providing that informal conferences must be held in accordance with the department's rules of practice and procedure.

- 1 • On page 2, lines 19-20, the Committee may wish to clarify
2 that an informal conference must be held within 30 days
3 after last publication of notice of the application in
4 order to consolidate objections for a single informal
5 conference.
- 6 • On page 3, lines 7-8 and 11-12, it may be clearer to say
7 that the director shall render a decision on the
8 "objection" (or "objection and application") instead of
9 just the "application."
- 10 • On page 3, lines 13-16, the Committee may wish to include
11 language clarifying what procedures apply to any appeal
12 to the Environmental Quality Council. (For example, the
13 current language in subsection (k) and W.S. 35-11-517(e)
14 provide that "The contested case procedures of the
15 Wyoming Administrative Procedure Act shall apply to any
16 appeal under this subsection."). In addition, the
17 Committee may wish to consider whether to include
18 timelines for the Council to follow in reaching
19 decisions on applications (current W.S. 35-11-406(p)
20 requires the Council to issue a decision within 60 days
21 after the final hearing).
- 22 • The Committee may wish to consider whether a right to
23 appeal to the EQC exists in the absence of an informal
24 conference.
- 25 • The Committee may wish to consider how other persons or
26 entities become "any other parties" (see page 3, line 9)
27 to the informal conference.
- 28 • The Committee may wish to consider whether objections
29 should go to the Land Quality Administrator (current
30 law) or the DEQ Director (bill draft).

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35 **Section 2.** W.S. 35-11-406(m) (x) and (p) is repealed.

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39 **STAFF COMMENT**

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1 The bill draft repeals the following provisions in W.S. 35-
2 11-406:

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4 (m) The requested permit, other than a surface coal
5 mining permit, shall be granted if the applicant demonstrates
6 that the application complies with the requirements of this
7 act and all applicable federal and state laws. The director
8 shall not deny a permit except for one (1) or more of the
9 following reasons:

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11
12 ~~(x) If written objections are filed by an~~
13 ~~interested person under subsection (g) of this section;~~

14
15 ~~(p) The director shall render a decision on the~~
16 ~~application within thirty (30) days after completion of the~~
17 ~~notice period if no informal conference or hearing is~~
18 ~~requested. If an informal conference is held, all parties to~~
19 ~~the conference shall be furnished with a copy of the final~~
20 ~~written decision of the director issuing or denying the permit~~
21 ~~within sixty (60) days of the conference. If a hearing is~~
22 ~~held, the council shall issue findings of fact and a decision~~
23 ~~on the application within sixty (60) days after the final~~
24 ~~hearing. The director shall issue or deny the permit no later~~
25 ~~than fifteen (15) days from receipt of any findings of fact~~
26 ~~and decision of the environmental quality council.~~

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31 Section 3. This act is effective July 1, 2020.

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33 (END)